

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL NO. 1:08CR99**

**UNITED STATES OF AMERICA**

**VS.**

**DAVID FRANK PACE**  
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**ORDER**

**THIS MATTER** is before the Court on the Government's motion to correct sentence pursuant to Fed. R. Crim. P. 35(a). The Defendant does not oppose the relief sought.

Rule 35(a) provides that a Court may correct a sentence that "resulted from arithmetical, technical, or other clear error" within seven days after sentencing. **Fed. R. Crim. P.35(a)**. On July 23, 2009, the Court sentenced the Defendant to a 135-month term of imprisonment followed by a two year term of supervised release for violating 18 U.S.C. § 2422(b).

**See Judgment in a Criminal Case, filed July 28, 2009.** Pursuant to 18 U.S.C. § 3583(k), the term of supervised release for a violation of § 2422(b) "is any term of years not less than 5, or life." **18 U.S.C. § 3583(k)**.

The two year term of supervised release imposed clearly is contrary to this statute.

**IT IS, THEREFORE, ORDERED** that the Government's motion is **ALLOWED**.

**IT IS FURTHER ORDERED** that the Clerk prepare an amended judgment correcting the term of supervised release from 2 years to 5 years. All remaining terms and conditions of the original Judgment remain in full force and effect.

Signed: July 29, 2009

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

